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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,436	11/07/2001	Mark A. Kirkpatrick	60027.0075US01/BS01302	9937

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EXAMINER
DODDS, HAROLD E

ART UNIT	PAPER NUMBER
2168	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 September 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

    4a) Of the above claim(s) *4-8 and 10-25* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-3,9, and 26-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the

fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since

this application is eligible for continued examination under 37 CFR 1.114, and the fee

set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office

action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8

September 2005 has been entered.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

3.   Claims 1, 9, 26, 29, 30, and 33 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Hamlin et al. (U.S. Patent No. 6,477,504), Piller (U.S. Patent

No. 6,622,175), Hertzog et al. (U.S. Patent Publication No. US 2003/0069874), and

Underwood (U.S. Patent No. 6,609,128).

4.   Hamlin renders obvious independent claims 1 and 30 by the following:

"...maintaining a survey database..." at col. 13, lines 45-49.

"...the database comprising the one or more questions..." at col. 13, lines 45-49 and col.

14, lines 12-14.

"...for each question..." at col. 14, lines 12-14.

"...receiving a request for a network resource including the electronic survey..." at col. 5,

lines 14-22.

"...wherein the request is received at a web server computer..." at col. 5, lines 14-22

and col. 6, lines 25-27.

"...maintaining the network resource from a web browser..." at col. 13, lines 57-60 and

col. 5, lines 62-65.

"...in response to the request..." at col. 12, lines 27-29.

"...should be utilized to respond to the request..." at col. 6, lines 13-14 and col. 12, lines

27-29.

"...should not be utilized to respond to the request..." at col. 6, lines 13-14 and col. 12,

lines 27-29.

"...for displaying the questions..." at col. 7, lines 2-17.

"...and the input fields..." at col. 11, lines 27-29 and col. 10, lines 37-39.

"...in a web browser..." at col. 5, lines 62-65.

"...as a response to the request for a network resource..." at col. 12, lines 27-29 and col.

5, lines 14-22.

"...wherein the survey database further comprises..." at col. 13, lines 45-49.

"...data indicating how the input fields..." at col. 11, lines 27-29 and col. 10, lines 37-39.

"...for each question should be displayed..." at col. 7, lines 2-17.

"...data indicating a sequence for the one or more questions..." at col. 9, lines 10-15.

"...and wherein the one or more questions are ordered according to the sequence..." at

col. 9, lines 10-15.

"...data indicating whether each of the one or more questions..." at col. 14, lines 12-14.

"...should be included in the electronic survey..." at col. 12, lines 18-20 and col. 13,

lines 45-49.

"...for each of the one or more questions..." at col. 14, lines 12-14.

"...not to be included in the survey when executed..." at col. 14, lines 48-52, col. 12,

lines 18-20, and col. 13, lines 45-49.

"...corresponding to the electronic survey..." at col. 13, lines 45-49.

Hamlin does not teach the use of class files, markup languages, field types,

application names, form names, and version numbers.

5.   However Piller teaches the use of class files as follows:

"...determining whether a previously compiled class file..." at col. 6, lines 11-17.

"...in response to determining that a previously compiled class file..." at col. 6, lines 11-

17.

"...creating an executable class file..." at col. 9, lines 19-22.

"...by executing the class file..." at col. 9, lines 19-22.

"...when the class file is executed..." at col. 9, lines 19-22.

"...and wherein the class file..." at col. 9, lines 19-22.

The term "before" is used to represent "previously" in the "previously compiled class

file".

It would have been obvious to one ordinarily skilled in the art at the time of the

invention to combine Piller with Hamlin to use class files with databases to store survey

questions in order to allow users of the system the use of modern standard technology

for the storage of data in a database and gain greater acceptance of the system. Hamlin

and Piller have related applications and use related technologies. They teach the use of

computers, the use of networks, the use of clients, the use of servers, the sending of

requests, and the sending of responses. Hamlin provides the survey database with

questions, the sending of requests, the sending of responses, and using web browsers

and Piller provides compiled class files.

Piller does not teach the use of markup languages, the use of field types,

application names, form names, and version numbers.

6.   However. Hertzog teaches the use of markup languages and the use of

field types as follows:

"...and data identifying a type of input field..." at p. 8, par. 0094.

"...capable of generating markup language..." at p.10, par. 0109.

"...generating the markup language..." at p.10, par. 0109.

"...and returning the markup language..." at p. 19, par. 0206.

"...does not generate markup language..." at p.10, par. 0109.

It would have been obvious to one ordinarily skilled in the art at the time of the invention to combine Hertzog with Hamlin and Piller to use markup languages to process the class files in order to allow transfer of information in the class files over the network through the use of standard technology and gain greater acceptance of the system. Likewise, it would have been obvious to one ordinarily skilled in the art at the time of the invention to combine Hertzog with Hamlin and Piller to use definitions of field types in a database in order to provide information on the formats of questions, response data, and criteria for the ranges and types of data in these fields in order to provide flexability of the system and gain greater acceptance of the system. Hamlin, Piller, and Hertzog have related applications and use related technologies. Hamlin, Piller, and Hertzog teach the use of computers, the use of networks, the use of clients, the use of servers, the sending of requests, and the sending of responses, Hamlin and Hertzog teach the use of databases, the use of fields, and the use of browsers. Hamlin provides the survey database with questions, the sending of requests, the sending of responses, and using web browsers, Piller provides compiled class files, and Hertzog provides the markup languages and field types.

Hertzog does not teach the use of application names, form names, and version numbers.

7.   However, Underwood teaches the use of an application name, a form name, and a version number as follows:

"...and an application name..." at col. 175, lines 13-15.

"...a form name..." at col. 63, lines 32-34.

"...and a version number..." at col. 255, lines 66-67.

It would have been obvious to one ordinarily skilled in the art at the time of the invention to combine Underwood with Hamlin, Piller, and Hertzog to use application names, form names, and version numbers in order to allow the markup languages to address different components of the system. Hamlin, Piller, Hertzog, and Underwood have related applications and use related technologies. Hamlin, Piller, Hertzog, and Underwood teach the use of computers, the use of networks, the use of clients, the use of servers, the sending of requests, and the sending of responses and Hamlin, Hertzog, and Underwood teach the use of databases, the use of fields, and the use of browsers. Hamlin provides the survey database with questions, the sending of requests, the sending of responses, and using web browsers, Piller provides compiled class files, and Hertzog provides the markup languages and field types, and Underwood provides application names, form names, and version numbers.

8.   As per independent claim 26, the

"...memory storage for maintaining a database...," is taught by Hamlin at col. 3, lines 40-44 and col. 13, lines 45-49,

the "...and a processing unit coupled to the memory storage, wherein the processing unit is operative to...," is taught by Hamlin at col. 3, lines 40-44,

the "...maintain a survey database...," is taught by Hamlin at col. 13, lines 45-49,

the "...database comprising the one or more questions...," is taught by Hamlin at col.
13, lines 45-49 and col. 14, lines 12-14,

the "...and data identifying a type of input field...," is taught by Hertzog at p. 8, par.
0094,

the "...for each question...," is taught by Hamlin at col. 14, lines 12-14,

the "...receive a request for a network resource including the electronic survey...," is
taught by Hamlin at col. 5, lines 14-22,

the "...wherein the request is received at a web server computer...," is taught by Hamlin
at col. 5, lines 14-22 and col. 6, lines 25-27,

the "...maintaining the network resource from a web browser...," is taught by Hamlin at
col. 13, lines 57-60 and col. 5, lines 62-65,

the "...in response to the request...," is taught by Hamlin at col. 12, lines 27-29,

the "...determine whether a previously compiled class file...," is taught by Piller at col. 6,
lines 11-17,

the "...should be utilized to respond to the request...," is taught by Hamlin at col. 6, lines
13-14 and col. 12, lines 27-29,

the "...in response to determining that a previously compiled class file...," is taught by
Piller at col. 6, lines 11-17,

the "...should not be utilized to respond to the request...," is taught by Hamlin at col. 6,
lines 13-14 and col. 12, lines 27-29,

the "...create an executable class file...," is taught by Piller at col. 9, lines 19-22,

the "...capable of generating markup language...," is taught by Hertzog at p.10, par.
0109,

the "...for displaying the questions...," is taught by Hamlin at col. 7, lines 2-17,

the "...and the input fields in a web browser...," is taught by Hamlin at col. 11, lines 27-
29, col. 10, lines 37-39, and col. 5, lines 62-65,

the "...generate the markup language...," is taught by Hertzog at p.10, par. 0109,

the "...by executing the class file...," is taught by Piller at col. 9, lines 19-22,

the "...and return the markup language...," is taught by Hertzog at p.10, par. 0109,

the "...as a response to the request for a network resource...," is taught by Hamlin at
col. 12, lines 27-29 and col. 5, lines 14-22,

the "...wherein the survey database further comprises...," is taught by Hamlin at col. 13,
lines 45-49,

the "...data indicating how the input fields...," is taught by Hamlin at col. 11, lines 27-29
and col. 10, lines 37-39,

the "...for each question should be displayed...," is taught by Hamlin at col. 7, lines 2-
17,

the "...data indicating a sequence for the one or more questions...," is taught by Hamlin
at col. 9, lines 10-15,

the "...and wherein the one or more questions are ordered according to the
sequence...," is taught by Hamlin at col. 9, lines 10-15,

the "...when the class file is executed...," is taught by Piller at col. 9, lines 19-22,

the "...data indicating whether each of the one or more questions...," is taught by

Hamlin at col. 14, lines 12-14,

the "...should be included in the electronic survey...," is taught by Hamlin at col. 12,

lines 18-20 and col. 13, lines 45-49,

the "...and wherein the class file...," is taught by Piller at col. 9, lines 19-22,

the "...does not generate markup language...," is taught by is taught by Hertzog at p.10,

par. 0109,

the "...for each of the one or more questions...," is taught by Hamlin at col. 14, lines 12-

14,

the "...not to be included in the survey when executed...," is taught by Hamlin at col. 14,

lines 48-52, col. 12, lines 18-20, and col. 13, lines 45-49,

the "...and an application name...," is taught by Underwood at col. 175, lines 13-15,

the "...corresponding to the electronic survey...," is taught by Hamlin at col. 13, lines 45-

49,

the "...form name...," is taught by Underwood at col. 63, lines 32-34,

and the "...and a version number...," is taught by Underwood at col. 255, lines 66-67.

9.   As per claims 9, 29, and 33 the "...web server computer...," is taught by

Piller at col. 10, lines 47-49,

the "...is operative to receive response data...," is taught by Hamlin at col. 10, lines 2-4,

the "..corresponding to the input fields...," is taught by Hamlin at col. 11, lines 27-29 and

col. 10, lines 37-39,

and the "...and to store the response data in a database...," is taught by Hamlin at col. 13, lines 45-49.

10.   Claims 2, 3, 27, 28, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin, Piller, Hertzog, and Underwood as applied to the claims above, and further in view of Kraft et al. (U.S. Patent No. 6,832,239).

As per claims 2, 27, and 31, the "...determining whether a previously compiled class file...," is taught by Piller at col. 6, lines 11-17,

the "...should be utilized...," is taught by Hamlin at col. 6, lines 13-14,

the "...comprises determining whether the request for the network resource...," is taught by Hamlin at col. 5, lines 14-22,

the "...for the network resource...," is taught by Hamlin at col. 5, lines 14-22,

but the "...was a first request...," is not taught by either Hamlin, Piller, Hertzberg, or Underwood.

However, Kraft teaches the use of first requests as follows:

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"...A request manager 204A receives initial requests for resources
such as files from a client application 208..." at col. 5, lines
13-14.
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It would have been obvious to one ordinarily skilled in the art at the time of the invention to combine Kraft with Hamlin, Piller, Hertzog, and Underwood to use initial requests in order to use a standard procedure to ask for resources such as files and gain greater acceptance of the system. Hamlin, Piller, Hertzog, Underwood, and Kraft have related applications and use related technologies. Hamlin, Piller, Hertzog, Underwood, and Kraft teach the use of computers, the use of networks, the use of

clients, the use of servers, the sending of requests, and the sending of responses,

Hamlin, Hertzog, Underwood, and Kraft teach the use of databases, the use of fields,

and the use of browsers. Hamlin provides the survey database with questions, the

sending of requests, the sending of responses, and using web browsers, Piller provides

compiled class files, Hertzog provides the markup languages and field types,

Underwood provides application names, form names, and version numbers, and Kraft

provides initial requests.

      11.   As per claims 3, 28, and 32, the "...determining whether a previously

compiled class file...," is taught by Piller at col. 6, lines 11-17,

the "...should be utilized...," is taught by Hamlin at col. 6, lines 13-14,

the "...comprises determining whether the request for the network resource...," is taught

by Hamlin at col. 5, lines 14-22,

the "...was a first request...," is taught by Kraft at col. 5, lines 13-14,

the "...for the network resource...," is taught by Hamlin at col. 5, lines 14-22,

the "...or whether a web server...," is taught by Piller at col. 10, lines 47-49,

the "...operative to provide the network resource...," is taught by Hamlin at col. 5, lines

14-22,

the "...was reset...," is taught by Hertzog at p. 18, par. 0192,

the "...since the last time...," is taught by Hamlin at col. 8, lines 61-63 and col. 2, lines 7-

9,

and the "...network resource was accessed...," is taught by Hamlin at col. 5, lines 14-22.

Response to Arguments

12.   Applicant's arguments filed 8 September 2005 have been fully considered but they are not persuasive. In the first argument for independent claim 1 on page 9, paragraph 2, the Applicant states:

"In the Final Office Action, the Examiner stated that the inclusion of the language of Claim 8 and all intervening claims into independent Claim 1 might make independent Claim 1 allowable. (See Final Office Action, page 24, lines 1-2.) Per the Examiner's suggestion„ Claim 1 has been amended to include the subject matter of Claims 4-8 and Applicants respectfully submit that the amendment overcomes this rejection and adds no new matter."

The Examiner disagrees. Hamlin teaches the new portion of independent claim 1, which was previous in claim 8. Hamlin teaches "wherein the request is received at a web server computer" at col. 5, lines 14-22 and col. 6, lines 25-27 and "maintaining the network resource from a web browser" at col. 13, lines 57-60 and col. 5, lines 62-65.

The Examiner has further modified the rejection of the new portion of claim 1, which was previously in claim 6. Hamlin teaches not using parts of the questionnaires as follows:

"…At step 626, the banners are removed from the sites on the network system once the number of desired completed surveys has been achieved. At this step, the automatic survey system sends messages to all appropriate sites indicating the banner should no longer be displayed…" at col. 14, lines 48-52.

This teaching shows that banners may be removed from the questionnaires. If the banners may be removed this suggests that individual questions may also be removed from the questionnaires.

13.   In the second argument for claims 2, 3, and 9 on page 10, paragraph 1, the Applicant states:

"Dependent Claims 2-3 and 9 are also allowable at least for the reasons described above regarding independent Claim 1, and by virtue of their dependency upon independent Claim 1. "

The Examiner disagrees. Since the response to the first argument shows that

independent claim 1 is still rendered obvious, claims 2, 3, and 9 depend on independent

claim 1, and no new arguments have been provided for any of these claims, then claims

2, 3, and 9 are still rendered obvious.

14.   In the third argument for claims 26-33 on page 10, paragraph 2, the

Applicant states:

"Claims 26-33 have been added to more distinctly define and to round out the protection for the invention to which Applicants are entitled. Applicants respectfully submit that these claims are allowable over the cited art and that they add no new matter."

The Examiner disagrees. Prior art used for independent claim 1 applies to claims 26

and 30, prior art used for claim 2 applies to claims 27 and 31, prior art used for claim 3

applies to claims 28 and 32, and prior art used for claim 9 applies to claims 29 and 33.

For this reason, since no new arguments have been provided for any of the claims the

responses to the first and second arguments render obvious claims 36-33.

Conclusion

15.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Harold E. Dodds, Jr. whose telephone number is

(571)-272-4110. The examiner can normally be reached on Monday - Friday 8:00 -

4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeffrey A. Gaffin can be reached on (571)-272-4146. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Harold E. Dodds, Jr.
Patent Examiner
November 22, 2005

GRETA ROBINSON
PRIMARY EXAMINER